

Claims 15-20 and 24-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Monta in view of Rabenko (US 6,763,032).

Claims 21-23 and 28-38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Monta in view of Rabenko and Meggers.

Applicants respectfully traverse these rejections in view of the following comments.

Summary of December 15, 2009 Telephone Interview

On December 15, 2009 Applicants' undersigned counsel telephoned the Examiner to discuss certain discrepancies in the Rabenko patent. In particular, Applicants' counsel noted that the drawings published with the Rabenko patent did not correspond to the detailed description of the drawings in the specification. In addition, it was noted that the "Description of the Drawings" section of the Rabenko patent specified that Figures 1-29b were included in the patent, while the patent actually included Figures 1-33. It was noted in particular that Figure 8 relied on by the Examiner in the rejection of claims claim 15-20 and 24-27 was not described accurately in the specification of Rabenko (e.g., the reference numerals and descriptions provided in the Figure 8 description of Rabenko at column 11, et. seq., of Rabenko did not correspond to the Figure 8 drawing sheet published with the patent). During the discussion with the Examiner, it was discovered that a Certificate of Correction dated July 13, 2004 was filed which specifies:

Drawings.

*Delete Sheets 1-28, including Figs. 1-33 as they are not the drawings filed with the application and insert Figs. 1-29b as filed.*

The Examiner indicated that the correct Figures 1-29b of Rabenko could not be readily located. The Examiner also acknowledged that Figures 1-33 published with the Rabenko patent did not correspond to the detailed description and were not the correct drawing sheets for the Rabenko patent. The Examiner requested that Applicants point out this discrepancy in the response to the Office Action so that the Examiner could take appropriate action.

Applicants respectfully request removal of Rabenko as a reference of record and a withdrawal of all rejections based in part on Rabenko, as there is no indication that the drawings published with Rabenko and relied on by the Examiner in his rejections comprise prior art to the present application, and the specification of Rabenko does not disclose corresponding material.

#### Discussion of Rejections of Claims Based in Part on Rabenko

Claims 15-20 and 24-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Monta in view of Rabenko. Claims 21-23 and 28-38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Monta in view of Rabenko and Meggers.

As discussed above and acknowledged by the Examiner during the telephone interview, Rabenko should be removed as a reference against the present application and the rejection of claims 15-38, based in part on Rabenko, should be withdrawn. In rejecting these claims, the Examiner relies only on Figure 8 published with the Rabenko patent. As discussed above, these Figures are not the correct Rabenko figures and as such there is no indication that they comprise prior art to the present application.

#### Discussion of Rejection of Claims 1-14 and 43

Claims 1-14 and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Meggers in view of Heddes and in further view of Yamaguchi.

The Examiner acknowledges that Meggers and Heddes do not disclose that the deadline for determining that a next packet of a real-time stream is to be transmitted before other packets of the streams is derived from at least one of a pre-existing synchronization time stamp and a pre-existing synchronization time-reference extracted from one or more of the packets carried in the plurality of streams, as set forth in claims 1 and 43. The Examiner relies on Yamaguchi as disclosing this subject matter.

Yamaguchi discloses a method and apparatus for processing a data series including priority data. Yamaguchi is concerned with adjusting the receiving side decoding priorities to avoid delays, to enable processing of two pictures simultaneously, or to define a processing

priority in the case of an overload (See, e.g., Col. 11, lines 8-13, Col. 14, lines 5-7 and lines 46-52). To enable the forgoing, Yamaguchi artificially adds priorities to both the data streams and to each frame in the streams (Col. 13, line 49 through Col. 14, line 57, in particular Col. 14, lines 37-40; see also Col. 17, lines 12-16).

In contrast to Yamaguchi, with Applicants' claim 1, the deadline is derived from at least one of a pre-existing synchronization time stamp and a pre-existing synchronization time reference extracted from one or more of said packets carried in said plurality of streams, and not a deadline added to the stream or the frames of the streams, as is the case in Yamaguchi.

Also, with Applicants' claim 1, the deadline at issue is a deadline for transmission of the packets which determines when a packet is to be output from a buffer and into a digital multiplex for transmission to a receiver over a communications channel. In contrast, Yamaguchi is concerned with decoding priorities of encoded streams at the receiver.

The foregoing arguments apply equally to Applicants' independent claim 43, which includes corresponding subject matter.

Accordingly, the combination of Meggers, Heddes, and Yamaguchi does not disclose or remotely suggest a priority deadline for transmission of a packet that is derived from at least one of a pre-existing synchronization time stamp and a pre-existing synchronization time reference extracted from one or more of said packets carried in said plurality of streams, as claimed by Applicants in amended claims 1 and 43.

Further, Applicants respectfully submit that one skilled in the art would not have been motivated to combine the disclosures of Meggers, Heddes, and Yamaguchi as suggested by the Examiner. Meggers relates to modification of real-time streams, Heddes relates to a computer networking system, and Yamaguchi relates to adding priorities for decoding on the receiving side to avoid problems at the decoder. Only with hindsight impermissibly gained from Applicants' disclosure could one of ordinary skill in the art have arrived at the conclusions reached by the Examiner.

Applicants respectfully submit that the present invention would not have been obvious to one skilled in the art based on Meggers in view of Heddes and Yamaguchi.

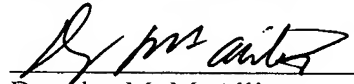
Further remarks regarding the asserted relationship between Applicants' claims and the prior art are not deemed necessary, in view of the foregoing discussion and the understanding reached with the Examiner during the telephone interview. Applicants' silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

Withdrawal of the rejections under and 35 U.S.C. § 103(a) is therefore respectfully requested.

Conclusion

The Examiner is respectfully requested to reconsider this application, allow each of the pending claims and to pass this application on to an early issue. If there are any remaining issues that need to be addressed in order to place this application into condition for allowance, the Examiner is requested to telephone Applicants' undersigned attorney.

Respectfully submitted,



Douglas M. McAllister  
Attorney for Applicant(s)  
Registration No.: 37,886  
Lipsitz & McAllister, LLC  
755 Main Street  
Monroe, CT 06468  
(203) 459-0200

ATTORNEY DOCKET NO.: RGB-101

Date: December 17, 2009